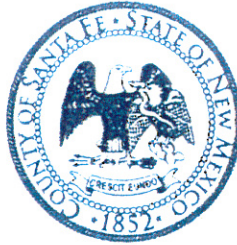


Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Rudy N. Garcia
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

DATE: February 26, 2019

TO: Board of County Commissioners

FROM: Jose E. Larrañaga, Development Review Team Leader

VIA: Katherine Miller, County Manager
Penny Ellis-Green, Growth Management Director
Vicki Lucero, Building and Development Services Manager

FILE REF.: BCC Case # SLAP 18-5051 PNM BB2 345kV Transmission Line Project, CUP Appeal.

ISSUE:

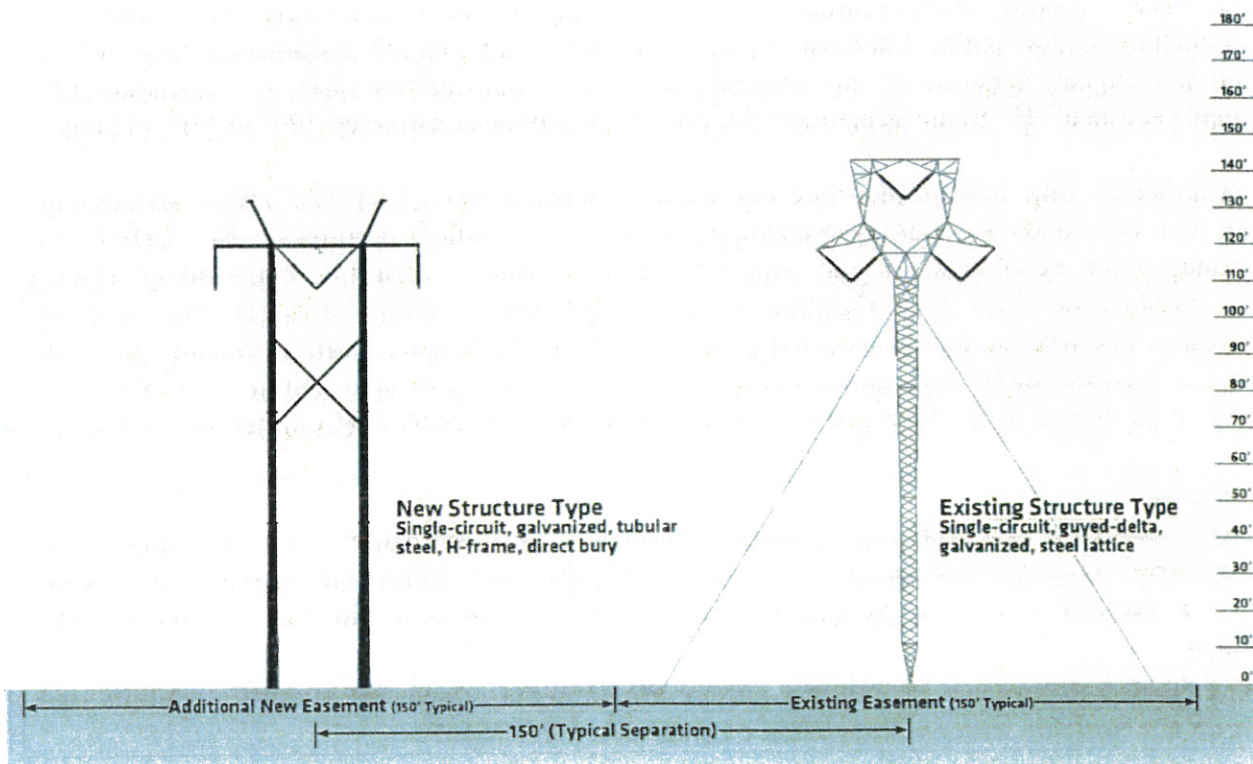
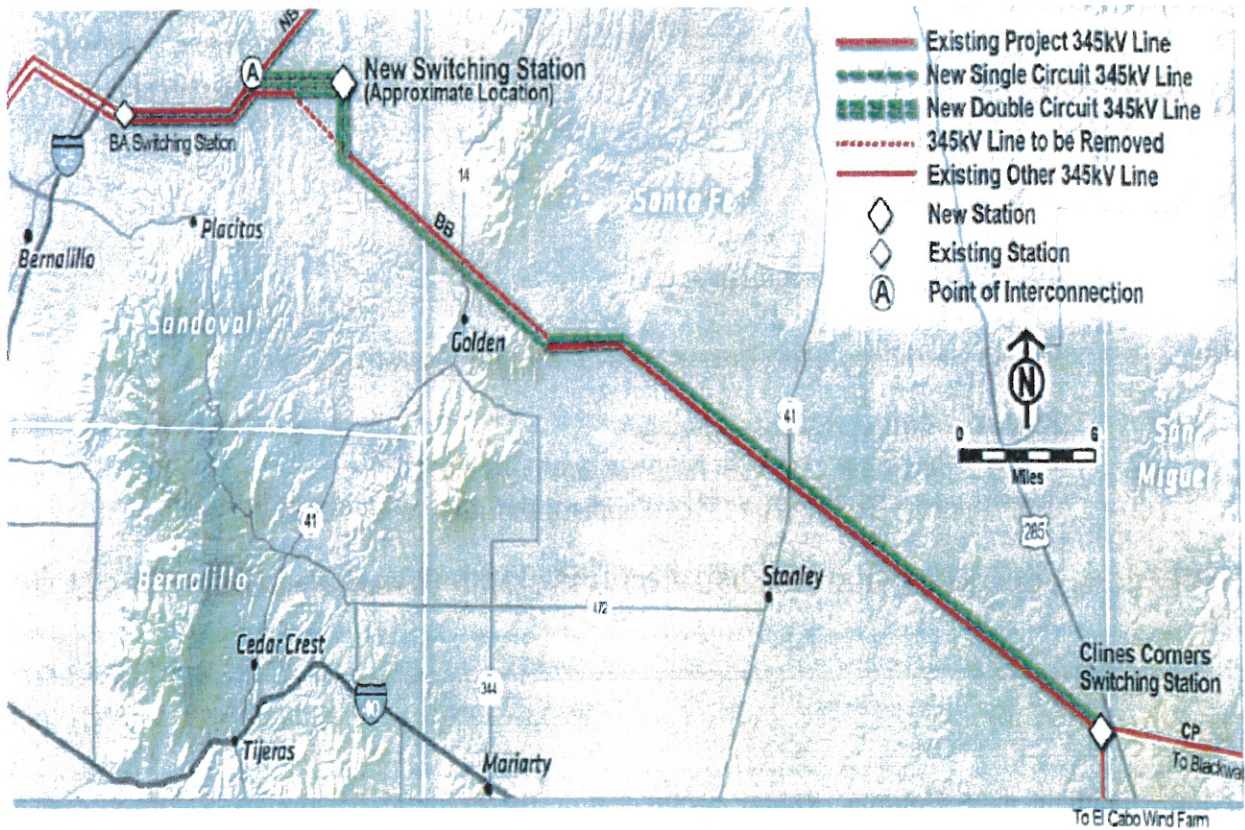
Bill King, Appellant, Karl Sommer, Agent, are appealing the Planning Commission's Final Order regarding a Conditional Use Permit (CUP) to construct approximately 31 miles of new single-circuit 345kV transmission line in southern Santa Fe County. The proposed transmission line will connect PNM's existing Clines Corners 345kV Switching Station (within Santa Fe County) to a new switching station within Sandoval County. The new single-circuit transmission line will be located immediately adjacent to the existing BB 345kV transmission line on a separate 150' easement. The steel "H" frame structures (140 pole sites) will be constructed 120' to 150' in height.

The proposed 31 mile transmission line will meander through State Land (2.5 miles) and through parcels that are zoned Agricultural/Ranching and Rural (31 miles). Ordinance No. 2016-9, the Sustainable Land development Code, Appendix B, Use Matrix, identifies high-voltage electric power transmission lines as a Conditional Use within these Zoning Districts. The proposed transmission line will run east to west within southern Santa Fe County, north of Stanley and north of Golden, meandering through approximately 25 separate parcels of land, within T 10, R 7, 8, 9, 10, 11 E, T 11, R 7, 8, 9, 10, 11 E and T 12 N, R 7, 8, 9, 10, 11 E, SDA-3, (Commission District 3).

Clarification:

1. PNM's submittal and staff report make reference to the "BB Line". The "BB Line" is an existing 345kV transmission line on an existing 150' easement, which was constructed in 1984. The CUP request is for the proposed BB2 345kV transmission line on a separate 150' easement.
2. PNM labeled documents as exhibits and/or attachments which are in staff's exhibits and which do not coincide with exhibits listed on page 13 of this report.

Vicinity Map:



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APPEAL:

On January 16, 2019, Mr. Bill King (Appellant) submitted an appeal of the Planning Commission's findings of fact and conclusions of law (recorded on 12/26/18) regarding the approval of a Conditional Use Permit (CUP) to construct approximately 31 miles of new single-circuit 345kV transmission line in southern Santa Fe County as requested by PNM. (Exhibit 1a)

The Appellant states, the proposed 150' ROW is inadequate and contrary to SLDC requirements. The following are reasons for the Appellants appeal, staff response, and PNM's response:

Appellant:

The PNM analysis included calculations of the minimum ROW with an 1,800' interval between H Frames. PNM determined that the minimum required width for the extreme wind case is 202.8 feet. (Exhibit A, PNM Exhibit JRM-1) The proposed 150' ROW is inadequate to accommodate the extreme wind case, which could result in adverse safety impacts with respect to the existing parallel transmission lines and also with respect to adjacent privately-owned property outside the proposed easement.

Staff Response:

Ordinance No. 2016-9, the Sustainable Land Development Code (SLDC), Section 7.12 (Utilities), does not regulate the width of an easement for this type of utility. Section 7.12.2 states, "all utilities shall be placed in designated utility easements."

PNM's Response:

The National Electric Safety Code, 2017 (NESC) is adopted by the State of New Mexico and "covers basic provisions for safeguarding of persons from hazards arising from the installation, operation, and maintenance of (1) conductors and equipment in electric supply stations, and (2) overhead and underground electric supply and communications lines". The provision for horizontal clearances to buildings and to other facilities is described in Rule 234 of the NESC.

The cited exhibit (Exhibit A PNM Exhibit JRM-1) shows ROW calculations for a range of spans and includes data for an 1800-foot ruling span which was solely for presentation purposes. As a point of clarification and after further review, there are no spans in Santa Fe County more than 1600 feet. The line design spans in Santa Fe County are in the range of 1350 to 1450 feet and there are no spans in Santa Fe County that are 1900 to 2000 feet. To meet NESC Rule 234 and to provide clearance to buildings if present, a ROW width of 121.5 feet has been presented as adequate for a 1400-foot span. Therefore, a 150-foot ROW based on NESC code is appropriate and proper. The NESC Rule 250 cited only addresses structure strength requirements which includes the Extreme Wind Load Case. (Exhibit 20)

Appellant:

PNM's submittal acknowledges that its own safety analysis did not assess the proposed maximum 2,000' H Frame interval, which renders the PNM analysis facially defective.

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Staff Response:

SLDC, Section 7.12 (Utilities) does not require an analysis of the easement to meet any County, State, and/or Federal requirements. This utility is regulated by the National Electric Safety Code (NESC) standards for safety and construction. PNM designed this project to meet applicable NESC code requirements.

The "BB Line" is an existing 345kV transmission line on an existing 150' easement, which was constructed in 1984. The span between poles on the BB Line is 1,000 to 1,500 feet and the poles are 150 feet in height on an existing 150 foot easement.

PNM's Response:

There are not any 2000 ft spans in Santa Fe County, see above PNM response to number 1.

Appellant:

The PNM analysis states "since the point of this analysis is to provide the absolute minimum ROW width, for this analysis the lesser clearance was used. Note that this is not a safe distance or a recommended distance, simply the minimum distance required to maintain line energization during an unusual weather event." (Exhibit A, P. 5) PNM does not explain why it proposes to use a ROW width that is neither safe nor recommended. The point of the analysis should have been to determine a safe ROW width. The lack of such a safety analysis precludes the County's ability to make a defensible finding, supported by substantial evidence, that the use "will not be detrimental to the health, safety and general welfare of the area." (Order ¶8.a) There is no evidence in the record to support a finding that this mandatory SLDC requirement has been satisfied or that the safety of affected property owners will be protected.

Staff Response:

The Findings by the Planning Commission, for the approval of the CUP, was based on the CUP compliance with the SLDC and that placement of this utility within the 150' easement would not be detrimental to the health, safety and general welfare of the area.

PNM's Response:

To meet NESC Rule 234 and provide clearance to buildings, a ROW width 121.5 feet has been presented as adequate for a 1400-foot span. The paragraph cited in the King allegation is not applicable to NESC horizontal clearance requirements and is taken out of context. PNM is designing this project to meet applicable NESC code requirements as is required for all PNM projects in the State of New Mexico including Santa Fe County. The technical calculations to meet NESC requirements have been accepted by NMPRC professional technical staff in recent recommendations to the NMPRC as shown on page 21 in attachment NMPRC Staff Initial Post-hearing Brief, February 20, 2019.

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Appellant:

Even assuming a 150' ROW adjacent to the existing 150' ROW is safe and adequate for its own purposes, which it is not, PNM's proposal would result in an effective 75' ROW with respect to adjacent unencumbered private land, which is insufficient.

The proposed 150' ROW provides a horizontal width of 150' between the existing H Frames and transmission lines and the proposed H Frames and transmission lines (75' from the existing 150' ROW and 75' from the new 150' ROW). However, on the exterior side of the proposed ROW, the horizontal distance is only 75'. In other words, PNM proposes to treat the adjoining unencumbered private property in a manner different than the encumbered property between the two parallel transmission lines. PNM has determined that an effective 150' ROW is necessary for its own development; but has not explained why a lesser 75' ROW on the exterior side of the new transmission line would be adequate with respect to the affected private property owners.

For example, if a 150' tall H Frame toppled toward the parallel transmission line due to an event such as an earthquake, erosion or a high wind event, the H Frame would not affect an existing H Frame along the parallel line that is 150' away. However, if the H Frame fell the opposite way, toward the adjacent private property, it would fall 75' into the unencumbered private property. As a result, the effective encumbrance of the proposed H Frames is 150', not 75' as proposed by PNM. A private property owner could not build structures within 75 feet of the proposed ROW and that property would effectively be taken by PNM.

There should be an additional 75' of ROW on the exterior side of the easement in order to provide the private properties with the same degree of safety and protection as PNM provides to itself. Such a ROW would also accommodate the minimum required width for an extreme wind event.

Staff Response:

SLDC, Section 7.12 (Utilities) does not require a "fall zone" for this type of facility.

PNM's Response:

Each line is situated within its own full ROW width and is designed so that horizontal clearances are maintained both to the edge of ROW and in this case from one energized line to the other energized line. It should be noted that the proposed BB2 line is H-frame design and the existing parallel line is lattice steel design.

The distance from centerline to centerline of the two lines is 150 feet. This spacing is not based on the ability to contain an unlikely structure failure, but rather addresses 1) containing blowout for each circuit within its ROW, 2) providing adequate spacing between the circuits under wind displacement of both lines, and 3) providing distance between the two lines to allow for construction and maintenance while working near an energized facility. This is sound engineering principles and prudent utility practice.

Appellant:

The PNM analysis does not address the potential for an H Frame to topple, potentially onto private property outside the proposed easement. Again, the analysis is facially inadequate. The ROW should be no less than 150' on the exterior side of the H Frames.

Staff Response:

SLDC, Section 7.12.1.3 states, "above-ground electric utility lines that transmit electricity at a voltage greater than or equal to 46 kilovolts shall be designed and constructed at the minimum height necessary for the proposed structure to function properly and for public health, safety and welfare, as demonstrated by the applicant." PNM justified the need of the requested structure height and satisfied the requirements set forth in the SLDC.

PNM's Response:

Transmission line structures are to be designed to withstand significant high wind and ice loadings per the NESC Rule 250. The NESC is based on extensive historical and engineering data. Similar to the code requirements for other facilities such as streetlights, fencing, and tall buildings, ROW is not acquired that would accommodate a full failure under any possible catastrophic event.

CODE REQUIREMENT FOR APPEAL:

Section 4.5.4. Appeal of a Final Decision of the Planning Commission states, "any party with standing may appeal a final decision of the Planning Commission to the Board. The application seeking an appeal of a decision of the Planning Commission must be filed with the Administrator. An appeal from a decision of the Planning Commission must be filed within thirty (30) working days of the date of the decision and recordation of the final development order by the Planning Commission. The application shall be forwarded by the Administrator to the Board. The Administrator shall provide to the Board a copy of the record of the proceedings below of the decision appealed. The appeal shall be placed on the docket of the Board for consideration on the next available agenda. An appeal of the decision of the Planning Commission shall be reviewed *de novo* by the Board. The timely filing of an appeal shall stay further processing of the application unless the Board determines that special circumstances exist."

SUMMARY OF CUP REVIEW:

The BB2 Project consists of construction of a single-circuit line within southern Santa Fe County, commencing from the existing PNM Clines Corners 345kV Switching Station, which is on State Land within Santa Fe County, to just west of NM-14 to the Santa Fe County line then to a point in Sandoval County. The BB2 Project is approximately 31 miles on private property for the new single-circuit 345kV transmission line. The line is also located on approximately 2.5 miles of State Land on the existing Clines Corner Switching Station. (Exhibit 1)

The new single-circuit line will be located immediately adjacent to the existing BB 345kV transmission line, built in 1984, within an existing 150 easement and will expand the existing

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utility corridor. The new construction will require an additional easement 150 feet in width. PNM is currently working with private landowners to obtain this easement. Access for the BB2 Project will be from existing roads adjacent to the site and the existing PNM patrol 2-tracks which is on the existing BB 150 foot easement. (Exhibit 2)

PNM states, "the BB2 project is proposed in response to a wind farm developer who has entered into an agreement with PNM to transmit into the transmission grid the electricity generated by a new wind development in Torrance County, New Mexico. PNM is required by the Federal Energy Regulatory Commission (FERC) to develop the requested capacity on its transmission system to serve this wind farm developer. In order to serve the wind farm developer, PNM will need to build a new transmission line in southern Santa Fe County to deliver this new wind energy. The new single-circuit line will be located immediately adjacent to the existing BB 345kV transmission line and this will expand the existing utility corridor."

Structure type (pole) for the BB2 project is a single-circuit H-Frame and will be a dulled galvanized color (gray color) to match the color of the existing BB structures. The typical height of the structures for the BB2 project is approximately 120 to 150 feet which meets the National Electric Safety Code (NESC) standards for safety. The BB2 transmission structures will be located generally parallel (150 foot separation) to the existing BB transmission structures. Final locations of the transmission structures will be subject to site specific conditions. The BB2 Project consists of approximately 140 pole sites for the transmission structures in Santa Fe County. Each transmission pole site or structure area is approximately 20 x 40 feet. The average span length between transmission structures will be between approximately 1,000 to 1,500 feet. In rugged terrain, structures may be spaced up to 1,900 to 2,000 feet apart.

Ordinance 2016-9, the Sustainable Land Development Code (SLDC), Section 7.12.1.3, states, "above-ground electric utility lines that transmit electricity at a voltage greater than or equal to 46 kilovolts shall be designed and constructed at the minimum height necessary for the proposed structure to function properly and for public health, safety and welfare, as demonstrated by the applicant."

The following are PNM's justification for the need of the requested structure height:

The National Electric Safety Code (NESC), introduced in 1914, provides practical safeguarding guidelines used by utilities as the industry standard for utility safety. The NESC covers basic provisions for safeguarding of persons from hazards arising from the installation, operation, or maintenance of (1) conductors and equipment in electric stations, and (2) overhead and underground electric and communication lines. It also includes work rules for the construction, maintenance and operation of electric lines and communication lines and equipment. The standard is applicable to the systems and equipment operated by utilities (IEEE Standards Association, 2017 National Electric Safety Code). The NESC is adopted as law by the New Mexico Public Regulation Commission requiring PNM to develop new facilities to the current NESC. It is also cited in Section 7.2.1.4 of the Santa Fe County Sustainable Land Development Code that all development shall comply with the NESC. The overall height of the proposed structures for the BB2 Project must accommodate the following:

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- a) ground to conductor clearances per the National Electric Safety Code; These required clearances are the distances that must be maintained between the conductor and the ground in order for the line to operate safely under a range of operating conditions.
- b) sag of the conductor; The sag is the distance that the conductor dips below a straight line between two structures/points of support.
- c) length of insulators and hardware; Insulators support the weight of the suspended conductor without allowing the current to flow through the structure to ground.
- d) location of the overhead shield wire or static line that will provide necessary lightning protection. The shield wire or static line is located at the highest point and intercepts direct lightning strikes to prevent lightning from striking the conductor.

For the BB2 Project, wherever possible, structure placement is planned to be adjacent to the structures on the existing BB Line. This placement maximizes the use of the existing access and the patrol 2-track system and will aid in reducing visual impacts. Using this placement, a typical span in flat level terrain is 1,400 feet. A structure with an above-ground height of 115 feet is required to accommodate ground clearance, sag, insulators, and shield or static wire.

Generally, the taller the structures are, the longer the span will be. In areas with uneven terrain, or where drainage features or roads are to be spanned or environmentally sensitive sites are to be avoided, taller structures will be needed, potentially up to 150 feet in height in order to lengthen the span. For these reasons, the structure heights may vary and account for the range of above-ground heights presented in the application.

It should also be noted that the height of the new BB2 structures will be approximately 8 to 10 feet shorter than the structures on the existing BB line.

Staff has reviewed the information, submitted by PNM, demonstrating the need for the height of the structures and agrees with PNM that in order for the structure to function properly and for public health, safety and welfare, the structures require a height of 120 to 150 feet. (Exhibit 3)

SLDC, Appendix B, Use Matrix, identifies high-voltage electric power transmission lines as a Conditional Use within these Zoning Districts. (Exhibit 4)

Conditional Use Permit;

SLDC, Section 4.9.6. Conditional Use Permits (CUP). For approval of certain conditional uses as set forth in the Use Matrix and elsewhere in the SLDC, pursuant to this Section.

SLDC, Section 4.9.6.1. Purpose and Findings. This Section provides for certain uses that, because of unique characteristics or potential impacts on adjacent land uses, are not permitted in zoning districts as a matter of right but which may, under appropriate standards and factors set forth herein, be approved. These uses shall be permitted through the issuance of a conditional use permit (CUP).

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SLDC, Section 4.9.6.2. Applicability. The provisions of this Section apply to any application for approval of a CUP as required by the Use Matrix. Conditional uses are those uses that are generally compatible with the land uses permitted by right in a zoning district but that require individual review of their location, design and configuration, and the imposition of conditions or mitigations in order to ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses that are enumerated as conditional uses in a zoning district, as set forth in the use matrix, may be authorized by the Planning Commission. No inherent right exists to receive a CUP. Concurrent with approval of a CUP, additional standards, conditions and mitigating requirements may be attached to the development order. Additionally, every CUP application shall be required to comply with all applicable requirements contained in the SLDC.

SLDC, Section 4.9.6.5, Approval Criteria. CUPs may only be approved if it is determined that the use for which the permit is requested will not:

1. be detrimental to the health, safety and general welfare of the area;
2. tend to create congestion in roads;
3. create a potential hazard for fire, panic, or other danger;
4. tend to overcrowd land and cause undue concentration of population;
5. interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
6. interfere with adequate light and air; and
7. be inconsistent with the purposes of the property's zoning classification or in any other way inconsistent with the spirit and intent of the SLDC or SGMP.

In response to Section 4.9.6.5 CUP Criteria PNM states the following: (Exhibit 5)

1. **not** be detrimental to the health, safety and general welfare of the area;

The BB2 Project is not detrimental to the health, safety and general welfare of the area. PNM follows the National electric Safety code requirements for the safety of the general public and utility workers. PNM is placing the BB2 Project in an existing electric transmission corridor adjacent to an existing 345kV transmission line.

Staff response: The project will be constructed to meet the National Electric Safety Code (NESC). The NESC is adopted as law by the New Mexico Public Regulation Commission requiring PNM to develop new facilities to the current NESC criteria.

2. **not** tend to create congestion in roads;

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The BB2 Project will not create congestion in roads. Construction traffic will occur; however, after construction is complete, there will be no traffic from the Project.

Staff response: The bulk of any added traffic to the existing roads that will be utilized to access the proposed site will be for the construction of the BB2 line. The added traffic will only occur until completion of the project. After the line is operational routine maintenance, if required and inspections of the structures and line will occur approximately every 3 years.

3. not create a potential hazard for fire, panic, or other danger;

The BB2 Project must comply with North American Electric Reliability Corporation (NERC) requirements and standards for removing any potential fire hazard. The BB2 Project is an electric transmission line and not a building.

Staff response: The structures are equipped with a shield wire or static line which is located at the highest point of the structure and intercepts direct lightning strikes to prevent lightning from striking the conductor.

4. not tend to overcrowd land and cause undue concentration of population;

The BB2 Project is an electric transmission line and not a residential development. Existing uses are ranching and dispersed rural residential which can continue.

Staff response: The easement to be utilized for the BB2 line runs primarily through land utilized for grazing. The Agricultural/Ranching and Rural Zoning Districts do not allow high density development. The land within the easement for the BB2 line is subject to the density requirements set forth in the SLDC.

5. not interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;

The BB2 Project is an electric transmission project and will not cause a deficiency of existing levels of service for Santa Fe County schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements, emergency response service, transportation or other public requirements, conveniences or improvements or create any other public service costs. The BB2 Project will provide Santa Fe County with annual property tax payments estimated at \$386,876 per year.

Staff response: The BB2 line project is in a remote area of Southern Santa Fe County and will not interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements.

6. not interfere with adequate light and air;

The BB2 Project as an open air electric transmission facility and will not interfere with adequate light and air.

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Staff response: The BB2 application does not propose lights on the structures and the structures are an "H" frame which allows air and wind to flow through the structures with minimal obstruction. The poles will be a non-reflective galvanized grey steel.

7. **not** be inconsistent with the purposes of the property's zoning classification or in any other way inconsistent with the spirit and intent of the SLDC or SGMP;

The BB2 Project is located on Ag/Ranch (AR) and Rural (RUR) and State Land and does not interfere with existing uses in those zones. SGMP Chapter 7 fully supports the development of new transmission lines to deliver renewable energy which is the purpose of the BB2 Project. The BB2 Project complies with the SLDC.

Staff response: A transmission line within the Ag/Ranch (AR) and Rural (RUR) Zoning District is an allowed use with the approval of a Conditional Use Permit. There is an existing 345kV line within an existing 150 foot easement with structures approximately 160 foot in height. The proposed BB2 line will run parallel to the existing BB line mirroring the existing development on the properties.

REQUIRED STUDIES REPORTS AND ASSESSMENTS (SRAs):

Section 6.1.2.1 Environmental Impact Report (EIR).

The Applicant submitted an Environmental Impact Report dated April 12, 2018. (Exhibit 6)

The EIR analyzes adverse effects and impacts on natural habitats and wildlife corridors; flood plains, floodways, stream corridors and wetlands; steep slopes and hillsides; air and water pollution; archeological, historical and cultural resources. The EIR addressed possible ways to minimize significant environmental effects and impacts of the project, identified possible ways to minimize the significant adverse effects or impacts, and described reasonable alternatives to the project.

The following adverse effects/impacts may occur as a result of the proposed project :

- There is potential for adverse impacts to the state threatened bird, gray vireo (*Vireo Vecinior*), as approximately 225 acres of potentially suitable habitat would be removed by the necessity of clearing the new ROW of trees.
- **Mitigation:** an in-depth field study was performed during the last two weeks in May. This was the beginning of nesting season and the survey provides information as to whether or not the gray viro is utilizing (and how much) the project area for nesting.

An updated survey for the grey vireo bird was submitted to staff on July 9, 2018. The survey results indicate that there were no gray vireos observed or located in Santa Fe County with no nests in the corridor. (Exhibit 14)

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- Six newly recorded Archeological sites, ten previously recorded sites, three previously recorded sites that were not found, a segment of the New Mexico Central Railroad grade (HCPI 13655), and 58 isolated occurrences were recorded on private land in Santa Fe County.

Mitigation: recommended for two sites. No further treatment is recommended for the remaining 15 sites as they are either not recommended as eligible or additional ground disturbance will be avoided. One of the sites, LA 171612, is mid-span and can be monitored and avoided.

- The Federal Emergency Management Agency (FEMA) has identified Zone A flood hazard areas with no base flood elevations in association with project area arroyos and draws. The project area passes through these areas.
- **Mitigation: tower construction in these areas would be avoided to the extent practicable. No dredging or filling of waterways is proposed, and structure placement would typically avoid arroyos.**

Conclusion:

The EIR prepared for the proposed CUP meets the intent outlined in Section 6.3 Environmental Impact Report.

6.1.2.5 Fiscal Impact Assessment (FIA).

PNM submitted a Fiscal Impact Assessment. (Exhibit 7)

This study describes the effects and impacts of the project upon County revenue and costs necessitated by additional public facilities and services generated by the development project and the feasibility for financing such facility and service costs.

The FIA addressed the non-effect of this project to the adequacy and financial provision for public facilities and services in Santa Fe County and non-effect on adopted levels of service for law enforcement, fire, and emergency response to Southern Santa Fe County. The FIA also addressed the fiscal implications of this project to Santa Fe County.

Conclusion:

The FIA prepared for the proposed CUP meets the intent outlined in Section 6.7 Fiscal Impact Assessment.

SLDC DESIGN STANDARDS:

ACCESS (Section 7.4) and ROAD DESIGN STANDARDS (Section 7.11)

PNM will use existing state and county roads for access to the general area. No additional public road construction is planned. To the extent practical, the patrol 2-track (dirt road) developed for private ingress and egress access routes developed as part of the transmission corridor in 1984 will be used. Where needed, additional patrol 2-track will be developed to access structures and temporary construction sites. This private access will be acquired as part of the easement acquisition. Approximately 5 to 7 miles of new patrol 2-track is estimated. This access is generally a dirt two track development with minor grading. Overland travel may also be used

FIRE PROTECTION (Section 7.5)

PNM states that, "Fire and Emergency Access Easements are not part of this project. Transmission Line construction crews are prepared for working in rural locations. Part of their standard safety programs typically include training in first aid and CPR, coordination meetings with local emergency agencies, advance identification of nearest medical facilities, identification of GPS coordinates for work sites on a daily basis, and engaging with third party rescue organization(s) at the start of construction."

PNM submitted additional information regarding access and emergency protocol during the construction of the Transmission Line and routine maintenance of the line. This information includes: detailed maps showing access; qualifications of construction personnel to address fire and injury incidents; frequency of inspections and visits to the BB2 line following construction. (Exhibit 8)

The Santa Fe County Fire Department, Fire Prevention Division reviewed the Application and approves the application with the following condition:

- The existing "patrol 2-track" in addition to the proposed 5-7 miles of new "patrol 2-track" shall be kept in a condition which will support the imposing load of an emergency apparatus.*

* In response to the above mentioned condition, PNM maintains that the existing dirt road can support the large equipment to be used for construction and therefore can support the imposing load of an emergency apparatus.

PROTECTION OF HISTORIC AND ARCHAEOLOGICAL RESOURCES (Section 7.16)

The Department of Cultural Affairs, Historic Preservation Division (HPD) reviewed an Archaeological Resources Report prepared by Marron and Associates for PNM on the easement to be utilized to construct the BB2 345 kV transmission line.

HPD had the following comments:

- Sites LA 171600, LA 190494 and LA 191147 are considered undetermined until additional documentation is gathered to help resolve whether or not they are significant. In addition, a segment of the Central Railroad was documented as HCPI 43655 within LA 190494. This segment of the railroad is not visible and is not significant.

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- The Historic Preservation Division (HPD) has no concerns with the proposed transmission line provided the above sites are avoided and a mitigation plan is prepared and implemented for LA 55687 and LA 77436. The plan must be provided to HPD for review and approval prior to implementation.

TERRAIN MANAGEMENT (Section 7.17)

Given the rural nature of this project, minimal storm drainage installations are planned. Existing drainages will be left in-place as much as possible or restored to pre-construction conditions. At structure sites and on patrol 2-tracks with steeper slopes, erosion control mitigations such as silt fencing, berms, replacement of stored top soil, and re-vegetation will be practiced. PNM will be preparing a Stormwater Pollution Prevention Plan (SWPPP) per EPA's Construction General Permit.

FLOOD PREVENTION AND FLOOD CONTROL (Section 7.18)

The Federal Emergency Management Agency (FEMA) has identified Zone A flood hazard areas with no base flood elevations in association with the project area arroyos and draws. The project corridor passes through these areas, but no installation of structures or other ground disturbing construction is expected within them. If the final design indicates that a structure may occur within a Zone A flood hazard area, PNM will need to work in consultation with the appropriate flood zone authorities to address the requirements specified in section 7.18.9.1.

SGMP GOALS AND POLICIES:

The 2015 Sustainable Growth Management Plan outlines items of importance in Santa Fe County that should be considered as development occurs. Planning staff have identified the following items and outlined the matters relevant to the proposed BB2 Transmission Line project:

- Visual qualities; while the proposed alignment adjacent to an existing transmission line does mitigate visual impact as compared to a new transmission line, there are still visual impacts for this 345KV transmission line. Adjacent communities may have concerns relating to views of additional H frames and lines.
- Significant lands; the proposed line is on a new easement adjacent to an existing easement which adds to the disturbance of land, rather than adding to an already disturbed area. Disturbance impacts should be mitigated by land restoration in order to reduce soil disturbance and ease erosion concerns.
- Land use compatibility; this is an expansion of an existing use in the area and is located adjacent to an existing transmission line.
- Direct economic impact; the transmission line just passes through Santa Fe County so economic benefit may be in the form of short-term construction jobs. This may also provide additional capacity for future development of wind power in Santa Fe County. Additional information should be included as to where the power generated by the wind farm could be distributed and whether that would benefit Santa Fe County.

- Regional sustainability; this transmission line is for building capacity of renewable energy. Chapter 7 of the SGMP explicitly supports the development and distribution of renewable energies at a regional scale.

There are 17 property owners. The current property owners acquired the property by warranty deeds which are recorded in the Santa Fe County Clerk's records and are contained in the record. (Exhibit 9)

On February 1, 2018, as required by Table 4-1 and Section 4.4.3 PNM presented the proposed CUP to the Technical Advisory Committee (TAC) at the regularly scheduled monthly meeting. (Exhibit 10)

On April 4, 2018, as required by Table 4-1 and Section 4.4.4 of the SLDC, PNM conducted a pre-application neighborhood meeting. (Exhibit 11)

Notice requirements were met as per Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC. In advance of a hearing on the Appeal, the **Appellant** provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the **Appeal** was made for fifteen days on the property, beginning on February 25, 2019. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on February 25, 2019, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject property and four Registered Organizations (ROs). A list of persons and ROs sent a mailing is contained in the record.

This Application was submitted on January 16, 2019.

CODE REQUIREMENTS:

The applicable requirements under Ordinance No. 2016-9, the Santa Fe County Sustainable Land Development Code, (SLDC), which govern this application are the following (Exhibit 12):

Chapter 6 - Studies, Reports and Assessments (SRAs)

Chapter 7 – Sustainable Design Standards

Section 4.9.6, Conditional Use Permits.

Section 4.5.4. Appeal of a Final Decision of the Planning Commission

AGENCY REVIEW (Exhibit 13)

Agency

County Fire Marshal
County Planning
SHPO

Review Comment

Approval with Condition
Approval
Approval

NBB-136

CUP RECOMMENDATION:

Building and Development Services staff reviewed the Conditional Use Permit (CUP) for compliance with pertinent SLDC requirements and found that the facts presented support the request for a CUP to construct approximately 31 miles of new single-circuit 345kV transmission line in southern Santa Fe County: the use is compatible with the current development within the Agricultural/Ranching and Rural Zoning Districts; the use will not impact adjacent land uses; and the Application satisfies the submittal requirements set forth in the SLDC inclusive of the Conditional Use Criteria set forth in Chapter 4, Section 4.9.6.5.

PNM demonstrated that the minimum height necessary, for the proposed structures to function properly and for public health, safety and welfare, would be 120 to 150 feet in height.

The review comments from the State Historic Preservation Office and County staff have established findings that this Application to construct 31 miles of new single-circuit 345kV transmission line immediately adjacent to the existing BB 345kV transmission line is in compliance with State requirements and design standards set forth in the SLDC.

The recommendation of the Hearing Officer, Planning Commission, and staff was for approval of a Conditional Use Permit to allow a new single-circuit 345kV transmission line, 31 miles in length, running east to west within southern Santa Fe County, meandering through 25 separate parcels of land, with the following conditions:

1. The CUP showing the site layout and any other conditions that may be imposed through the approval process shall be recorded at the expense of the applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.6.8.
2. Prior to recording the CUP the Applicant shall submit, to staff for the record, the recorded documentation of the acquisition of the entire 31 mile, 150 foot wide easement utilized by the BB2 345 kV transmission line.
3. Prior to recording the CUP the Applicant shall submit a Geotechnical Reconnaissance Report on the entire 31 mile, 150 foot wide easement utilized by the BB2 345kV transmission line. If the final design places a structure ("H" Frame) within a no build area, PNM is required to address the requirements specified in Chapter 7, Section 7.17.4. of the SLDC and submit the findings to staff for the record.
4. If the final design places a structure ("H" Frame) within a Zone A flood hazard area, PNM is required to work in consultation with the appropriate flood zone authorities to address the requirements specified in Chapter 7, Section 7.18.9.1. of the SLDC and submit the findings to staff for the record.
5. The patrol 2-track dirt road shall be capable of supporting emergency apparatus and shall be kept in good condition.

NBB-13c

6. All mitigation implemented as recommended in the Environmental Impact Report shall be documented and the findings submitted to staff for the record.
7. Ground disturbance at archaeological sites LA 171600, LA 171612, LA190494 and LA 191147 shall be avoided. A mitigation plan shall be prepared and implemented for LA 55687 and LA 77436. The mitigation plan shall be provided to the Historic Preservation Division for review and approval prior to implementation.
8. The maximum height of the "H" Frame structures to be utilized for the BB2 345 kV transmission line shall not exceed 150 feet.

PRIOR APPROVALS:

On July 12, 2018, a request for a Conditional Use Permit (CUP) to construct approximately 31 miles of new single-circuit 345kV transmission line in southern Santa Fe County was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusions of law in a written order on this request. The Hearing Officer, based on the evidence presented recommended approval of the request for a Conditional Use Permit with the conditions recommended by staff. The written order and the minutes of the July 12th hearing are attached as Exhibit 16 & 17.

On September 20, 2018, a request by PNM, for a Conditional Use Permit (CUP) to construct approximately 31 miles of new single-circuit 345kV transmission line in southern Santa Fe County, was made to the Santa Fe County Planning Commission. The Planning Commission approved the request for a Conditional Use Permit with the conditions recommended by staff. The Planning Commission memorialized findings of fact and conclusions of law in a written order on this request. The written order and the minutes of the September 20th, hearing are attached as Exhibit 18 & 19.

APPEAL RECOMMENDATION:

Staff recommends that the Board of County Commissioners uphold the Planning Commission's Final Order regarding the Conditional Use Permit in its entirety and deny the Appeal.

This Report and the Exhibits listed below are hereby submitted as part of the hearing record.

NBB-13d

EXHIBITS:

- 1a. Appellants Request
1. Development Report
2. Plan Set
3. Justification of Structure Height
4. Appendix B, Use Matrix
5. Applicants response to CUP Criteria
6. Environmental Impact Report
7. Fiscal Impact Report (FIA)
8. Additional Info. on Access and Emergency Protocol
9. List of Property Owners
10. TAC Follow Up Letter
11. Pre-application Neighborhood Meeting Material
12. Applicable Requirements of the Code
13. Agency Reviews
14. Updated Survey for the Grey Vireo Bird
15. Letter of Support
16. Hearing Officer Written Order
17. July 12th, Hearing Officer Minutes
18. Planning Commission Final Order
19. September 20, 2018 Planning Commission Minutes
20. PNM's response to Appeal

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January 14, 2019

Administrator
Santa Fe County Board of Commissioners
102 Grant Avenue
Santa Fe, NM 87501

**Re: Case Number CUP 18-5050
BB2 345kV Transmission Line Project
Public Service Company of New Mexico, Applicant
Appeal of Planning Commission Decision by Bill King**

Dear Administrator:

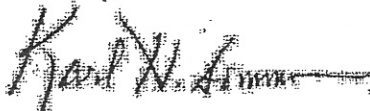
On behalf of property owner and appellant, Bill King, this letter constitutes an appeal of the Planning Commission decision on the above-referenced case in accord with SLDC §4.5.4.

The Planning Commission decision in this case was recorded on December 26, 2018. This appeal is filed within 30 working days of the recordation date and is therefore timely. Mr. King is the owner of the property in the right-of-way for the Proposed Line for which the Conditional Use Permit application was submitted and therefore he has standing to appeal.

The grounds for the appeal are that the application does not meet the applicable criteria for issuance of the requested Conditional Use Permit, and the Planning Commission's decision, as set forth in the Order, is not supported by substantial evidence in the record, is arbitrary and capricious, and is contrary to law.

Please advise when the Board of County Commissioners hearing on this appeal is scheduled to be heard.

Sincerely,



Karl H. Sommer

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cc: Bill King



APP-1

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February 7, 2019

Santa Fe County Board of County Commissioners
c/o Penny Ellis-Greene, Growth Management Director
102 Grant Ave
Santa Fe, NM 87501

Re: Appeal of Case No. CUP 18-5050
BB2 345 kV Transmission Line Project (the "Project")
Public Service Company of New Mexico, Applicant (PNM)

Dear Commissioner:

On behalf of Bill King, who owns property through which the Project is proposed, the purpose of this letter is to object to the Project as approved by the Planning Commission and to request that the BCC either reverse the Planning Commission decision or impose a condition that the 150' right-of-way (ROW) proposed as part of the Project be increased to 225' in order to provide the affected property owners with the same extent of safety and protection as PNM is providing for itself.

The proposed 150' ROW would be adjacent to PNM's existing 150' ROW, within which there is an existing transmission line. (Planning Commission Order, ¶3) The proposed H frame structures within the ROW ("H Frames") are up to 150 feet tall. (Order, ¶4) The H Frames are proposed to be placed at intervals of approximately 1,000' to 1,500', with intervals of up to 2,000' in "rugged terrain." (Order, ¶5)

The proposed 150' ROW is inadequate and contrary to SLDC requirements for the following reasons:

1. The PNM analysis included calculations of the minimum ROW with an 1,800' interval between H Frames. PNM determined that the minimum required width for the extreme wind case is 202.8 feet. (Exhibit A, PNM Exhibit JRM-1) The proposed 150' ROW is inadequate to accommodate the extreme wind case, which could result in adverse safety impacts with respect to the existing parallel transmission lines and also with respect to adjacent privately-owned property outside the proposed easement.

APP-2

2. PNM's submittal acknowledges that its own safety analysis did not assess the proposed maximum 2,000' H Frame interval, which renders the PNM analysis facially defective.

3. The PNM analysis states "since the point of this analysis is to provide the absolute minimum ROW width, for this analysis the lesser clearance was used. Note that this is not a safe distance or a recommended distance, simply the minimum distance required to maintain line energization during an unusual weather event." (Exhibit A, P. 5) PNM does not explain why it proposes to use a ROW width that is neither safe nor recommended. The point of the analysis should have been to determine a safe ROW width. The lack of such a safety analysis precludes the County's ability to make a defensible finding, supported by substantial evidence, that the use "will not be detrimental to the health, safety and general welfare of the area." (Order ¶8.a) There is no evidence in the record to support a finding that this mandatory SLDC requirement has been satisfied or that the safety of affected property owners will be protected.

4. Even assuming a 150' ROW adjacent to the existing 150' ROW is safe and adequate for its own purposes, which it is not, PNM's proposal would result in an effective 75' ROW with respect to adjacent unencumbered private land, which is insufficient.

The proposed 150' ROW provides a horizontal width of 150' between the existing H Frames and transmission lines and the proposed H Frames and transmission lines (75' from the existing 150' ROW and 75' from the new 150' ROW). However, on the exterior side of the proposed ROW, the horizontal distance is only 75'. In other words, PNM proposes to treat the adjoining unencumbered private property in a manner different than the encumbered property between the two parallel transmission lines. PNM has determined that an effective 150' ROW is necessary for its own development; but has not explained why a lesser 75' ROW on the exterior side of the new transmission line would be adequate with respect to the affected private property owners.

For example, if a 150' tall H Frame toppled toward the parallel transmission line due to an event such as an earthquake, erosion or a high wind event, the H Frame would not affect an existing H Frame along the parallel line that is 150' away. However, if the H Frame fell the opposite way, toward the adjacent private property, it would fall 75' into the unencumbered private property. As a result, the effective encumbrance of the proposed H Frames is 150', not 75' as proposed by PNM. A private property owner could not build structures within 75 feet of the proposed ROW and that property would effectively be taken by PNM.

There should be an additional 75' of ROW on the exterior side of the easement in order to provide the private properties with the same degree of safety and protection as PNM provides to itself. Such a ROW would also accommodate the minimum required width for an extreme wind event addressed in paragraph 1, above.

5. The PNM analysis does not address the potential for an H Frame to topple, potentially onto private property outside the proposed easement. Again, the analysis is facially inadequate. **The ROW should be no less than 150' on the exterior side of the H Frames.**

Conclusion

Based on the information submitted by PNM, the County is not in position to make the legally required finding, supported by substantial evidence, that the Project will not be detrimental to the health, safety and general welfare of the area and in particular the private property owners through whose land the new transmission line would pass. Approval of the Project, as proposed, would be arbitrary, capricious and contrary to law. Mr. King requests that the BCC either deny the Project or approve the Project subject to an additional condition that the ROW be expanded by an additional 75' on the exterior side for a total easement width of 225'.

Sincerely,

Joseph Karnes

APP-4

Development Report for Conditional Use Permit – BB2 Transmission Line Project
Santa Fe County
May 29, 2018

4.4. PROCEDURAL REQUIREMENTS

PNM has followed the direction and instructions on the Submittal Checklist: Conditional Use Permit for the BB2 Transmission Line Project (BB2 Project) provided at the Santa Fe County Pre-Application Meeting for the project on January 17, 2018 and the revised Checklist on April 9, 2018 with Jose Larranaga (Planner with Building and Development Services), from the Technical Advisory Committee (TAC) meeting held on February 1, 2018, from the TAC letter dated February 22, 2018, additional information of the Public Meeting report supplement date April 17, 2018, from the correspondence notice from Vicki Lucero dated April 27, 2018, from the meeting held with Jose Larranaga on May 2, 2018, additional information based on Vicki Lucero's letter new Exhibits and from the email from Jose Larranaga dated May 24, 2018. Additional requested copies and updated Development Report were provided May 29, 2018.

4.4.4. PRE-APPLICATION NEIGHBORHOOD PUBLIC MEETING

See **Attachment 1** for the Pre-Application Neighborhood Meeting Report and additional information in Neighborhood Public Meeting Report Supplement April 17, 2018. PNM notified 190 individual parcel owners and adjacent parcel owners and 5 registered or community organizations. PNM reached out via phone messages and emails to answer questions they had. One R.O. attended the public meeting and was complementary on the level of information provided and PNM willingness to answer questions. See **Attachments 1 Report; Attachment 1A** List of CO and RO's and parcel owners invited; **Attachment 1.B.** notice and copy of envelopes mailed; **Attachment 1.C.** signed in sheets; **Attachment 1.D.** Materials handed out at the meeting; and **Attachment 1.E.** copies of the poster boards displayed at the meeting.

4.6. NOTICE

PNM will follow the requirements for notification for the BB2 Project set forth in section 4.6.

4.9.6 CONDITIONAL USE PERMITS (CUP)

As required by the Use Matrix under the heading "Utility High-Voltage Electric Power Transmission Lines" in Agriculture/Ranching and Rural Zoning categories, new projects are "C" Conditional Use.

6.2.3 PROJECT OVERVIEW DOCUMENTATION

6.2.3.1 Project Map

Due to the 31 miles of 150-foot easement for the transmission line, PNM has attached a satellite view map in segments (See **Attachment 2**) Site Development Plan showing the following required items for the BB2 Project: existing topography; public or private buildings; structures and land uses; irrigation systems, including but not limited to acequias; public or private utility lines and easements, under, on or above ground; public or private roads; public or private water or oil and gas wells; known mines; parks, trails, open space and recreational facilities; fire, law enforcement, emergency response facilities; schools or other public buildings, structures, uses or facilities; nonconforming building, structures or uses; environmentally sensitive lands; archaeological, cultural or historic resources; scenic vistas and eco-tourist sites; agricultural and ranch lands. Some items do not occur in the study area.



NBB-14

The current land use for the area is ranching and dispersed residential. No other requirements of the Administrator were established at the pre-application meeting.

Also, see the Facilities Overview Map (Figure 4) in **Exhibit A** in follow up information provided May 10, 2018, Overall Site Development Plan provided in May 29, 2018 additional information, the Environmental Impact Report (EIR) and additional EIR figures for resource maps, **NOTE:** updated EIR provided in May 10, 2018 additional information request. The EIR states that 16 new and previously recorded archaeological sites have been recorded or updated on private land. **NOTE:** explanation of ongoing current geotechnical report activities provided in May 10, 2018 additional information requested. The confidential Archaeological Resources Investigation (**Exhibit C**) will address these further, **NOTE:** updated Archaeological Resources Investigation was provided on May 10, 2018.

6.2.3.2 Detailed Description of the Development Uses, Activities and Character of the Development Proposed for the Project Site

Background

The U.S. is moving toward increased renewable generation. In many states, including New Mexico, there are specific renewable generation goals. To accommodate these goals and maintain reliability, utilities need to maintain generation resource diversity which requires new paths of transmission to connect the renewable generation locations with the electric grid. Some large US corporations nationally and locally are offsetting their energy use with renewable sources.

Project Description and Project Location

The BB2 Project is proposed in response to a wind farm developer who has entered into an agreement with PNM to transmit into the transmission grid the electricity generated by a new wind development in Torrance County, New Mexico. PNM is required by the Federal Energy Regulatory Commission (FERC) to develop the requested capacity on its transmission system to serve this wind farm developer. In order to serve the wind farm developer, PNM will need to build a new transmission line in southern Santa Fe County to deliver this new wind energy. The existing PNM 345kV BB Line, in service since 1985, is a primary transmission line connecting central and eastern New Mexico to the electric grid. It is located in Santa Fe County and is situated in areas of high wind energy potential. Starting in 2003, wind energy generated by New Mexico wind farms has interconnected into the BB Line. The BB Line is now fully utilized and unable to accommodate additional power. The proposed BB2 Project is necessary to serve this capacity request and will enable up to 362 megawatts (MW) of additional wind energy to serve demand for renewable energy in the New Mexico transmission grid and interconnected western electric grid.

The BB2 Project consists of construction in southern Santa Fe County from the existing PNM Clines Corners 345kV Switching Station on State Land in Santa Fe County to just west of NM-14 to the Santa Fe County line then to a point in Sandoval County. The BB2 Project is approximately 31 miles on private property for the new single-circuit 345kV transmission line. The line is also located on approximately 2.5 miles of State Land to the existing Clines Corner Switching Station. The Location is shown in **Attachment 2 and in overall Site Development Plan** provided on May 29, 2018.

The new single-circuit line will be located immediately adjacent to the existing BB 345kV transmission line and this will expand the existing utility corridor. The new construction will require an easement typically 150 feet in width. PNM is currently working with private

landowners to obtain this easement. The following zoning is on the parcels being traversed: Ag/Ranch (AR); Rural (RUR) and Public/Institutional (PI) State Land. The area is used for ranching and dispersed rural residential use; both uses can continue. Access for the BB2 Project will be from existing roads and PNM patrol 2-tracks.

Structure type and color for the BB2 is proposed to be an "H" frame with dull galvanized treatment matching the existing structure color, while the structure type was selected as the preferred type by traversed property owners. Switching station expansion will occur within the footprint of the existing Clines Corners 345kV Switching Station expansion located on State Land which is needed to accommodate the start of the new single-circuit 345kV line. Clines Corners Switching Station is located along US 285 about 6 miles north of Interstate 40. The in-service date is Fall 2020. The BB2 Project will result in a reallocation of the costs of transmission lines for PNM network customers, point-to-point customers and ratepayers. The net effect on PNM ratepayers will be beneficial or neutral.

PNM has completed a variety of public outreach. The required Pre-Application Neighborhood Meeting was held on April 4, 2018 from 5 to 7 pm at the Moriarty Civic Center. Notice was mailed to 190 individual parcel owners and County of Santa Fe identified Community Organization (1) and Registered Organizations (3). Additionally, PNM has held individual meetings with property owners and their representatives and hosted a property owner dinner and conducted a day and half Utility Search Conference (USC) with representatives selected by the USC Leadership Team.

Structural Design

Structure type and color for the BB2 Project is proposed to be the single-circuit H-Frame dulled galvanized steel structure (gray color) to match the color of the existing structures. The structure type was selected as the preferred type by traversed property owners. The typical height of the structures for the BB2 Project is approximately 120 feet to 150 feet which meets NESC standards for safety. Structure profile for the H-Frame is shown in **Attachment 3** and Elevations are shown in **Attachment 4**. **NOTE: Exhibit D.** Structure Height Justification was provided May 10, 2018 in additional information requested.

6.2.3.3 Approximate Location of All Neighboring Development Areas, Subdivisions, Residential Dwellings, Neighborhoods, Traditional Communities, Public and Private Utility Lines and Facilities, Public Buildings, Structures or Facilities, Community Centers and other Non-Residential Facilities and Structures within one (1) mile of the Site Perimeter

Residential dwellings and other Non-Residential Facilities and Structures are shown on **Attachment 5**. There are 77 structures within 1 mile of the project site perimeter (37 dwellings and 40 other non-residential structures). No dwellings are located within the BB2 150' easement.

The following items **do not** occur within one mile of the site perimeter:

Neighboring Development Areas:	None
Subdivisions:	None
Neighborhoods:	None
Traditional Communities:	None
Utility Lines and Facilities:	See Attachment 2
Public Buildings, Structures or Facilities:	None
Community Centers:	None

6.2.3.4 Approximate Location, Arrangement, Size of Any Building and Structures and Parking Facilities Proposed for the Construction within the Development Project

The BB2 transmission structures will be located generally adjacent to the existing transmission structures of the BB Line. Final locations of the transmission structures will be subject to site specific conditions. The BB2 Project consists of approximately 140 pole sites for the transmission structures in Santa Fe County. Each transmission pole site or structure area is approximately 20 feet x 40 feet. Each structure area will require a flat area for construction staging. Construction staging areas are generally 50 feet x 100 feet and may vary in size based on site conditions such as terrain. See **Attachment 6**. Average span length between transmission structures will be between approximately 1,000 feet and 1,500 feet. In rugged terrain, structures may be spaced up to 1,900 or 2,000 feet. **Attachment 7** shows the typical arrangement of the project. No buildings are proposed and no parking facilities are proposed.

6.2.3.5 Proposed Traffic Circulation Plan, including the Number of Daily and Peak Hour Trips to and from the Site and the Proposed Traffic Routes to the nearest Intersection with a State Road or Interstate

PNM contract crews will use existing state and county roads including NM-14, US-41 and US-285, existing private access roads and overland travel to reach the transmission corridor and general project area during construction. The existing patrol 2-track receives minimal use for line patrol and vegetation management which would continue after construction of the BB2 Project is complete. No additional public road construction is proposed. To the extent practical, the patrol 2-track developed for private ingress and egress access developed as part of the existing BB Line transmission corridor in 1984 will be used. Where needed, additional patrol 2-track alignments will be developed to access structures and temporary construction sites. This private access will be acquired as part of the easement acquisition. Approximately 5 to 7 miles of new private patrol 2-track is estimated. This is generally described as two-track private drive paths with minimal grading. See **Attachment 8 (Access)** and more detailed Fire Marshall Access maps and emergency plan description in **Exhibit E** provided in May 10, 2018 additional information requested.

6.2.3.6 Approximate Location of All Fire, Law Enforcement and Emergency Response Service Facilities and All Roads and Public Facilities and Utilities Shown on the Capital Improvement and Services Plan; Floodways, Floodplains, Wetlands, or other Environmentally Sensitive Lands and Natural Resources on the Applicant's Property; Location of Historic, Cultural and Archaeological Sites and Artifacts; Location of Slopes Greater than 15% and 30%; Wildlife and Vegetation Habitats and Habitat Corridors within One (1) Mile of the Proposed Project Site Perimeter

See Facilities Overview Map, Figure 4; Figure 3, Zoning Map; Figures 2a, 2b, and 2c, Arroyos and Flood Hazard Map in **Exhibit A: Environmental Impact Report**. No perennial or intermittent waterways cross the project area in Santa Fe County.

6.2.3.7 How the Proposed Project Complies with the Goals, Objectives, Policies and Strategies of the Santa Fe County Sustainable Growth Management Plan (SGMP) and Any Area or Community Plan Covering, Adjacent to, or within one (1) Mile of the Proposed Project Site Perimeter

Santa Fe County Sustainable Growth Management Plan

The BB2 Project complies with the *Santa Fe County Sustainable Growth Management Plan* (SGMP). Applicable sections include:

SGMP Chapter 2 Land Use Element

2.2.3.4 Existing Public and Institutional Land Use and Zoning (page 36)

"Ensuring that potential land use compatibility and environmental conflicts are taken into consideration in the location of utility uses, such as landfills, solid waste transfer stations, wastewater treatment plants, power lines and substations, and solar-or wind-power generation sites."

The BB2 Project location takes into account the potential land use compatibility and environmental conflicts by utilizing an existing transmission line corridor and preparation and review of an Environmental Impact Report. Existing uses of ranching and dispersed rural residential on the land can continue.

SGMP Chapter 3 Economic Development Element

3.2.5 INFRASTRUCTURE (page 67)

"...the County has identified regional infrastructure development in broadband, renewable energy and agriculture infrastructure as key to advancing the local economy into the future."

The BB2 Line is regional infrastructure development that will enable 362 MW of additional wind energy to help meet local demand for renewable energy in the interconnected western electric grid and will enable economic growth within New Mexico's renewable energy industry.

3.3 GOALS, POLICIES AND STRATEGIES

"Goal 9: Support the development of critical economic infrastructure to support economic development." (page 69)

The BB2 Project will provide critical economic infrastructure to support economic development in southern Santa Fe County and surrounding areas and in New Mexico.

"Policy 9.3: Support renewable energy infrastructure to enhance local energy independence as a means to improve economic opportunities."

The BB2 Project will enable wind energy to serve demand for renewable energy in the interconnected western electric grid and will enable economic growth within New Mexico's renewable energy industry.

SGMP Chapter 5 Resource Conservation Element

5.5 GOALS, POLICIES AND STRATEGIES

"Goal 17: Protect and preserve the County's archaeological, historic, cultural, community, and scenic resources." (page 104)

"Goal 20: Protect vegetation and wildlife, including rare, native species, threatened and endangered species." (pages 105-106)

"Goal 21: Scenic viewsheds should be preserved and protected as an important resource."

"Policy 21.2: Limit development on steep slopes, visible ridges and peaks." (page 117)

With the addition of a second line creating an electric transmission corridor PNM is protecting scenic view sheds. Additionally, PNM is addressing these elements in the Environmental Impact Report for the BB2 Project.

SGMP Chapter 7 Renewable Energy and Energy Efficiency Element

7.1.2 KEYS TO SUSTAINABILITY (page 117)

1. *"Santa Fe County will be a leader in renewable energy regulation, requirements, incentives, production and use. The County will support and develop infrastructure transition from conventional to renewable energy generation and distribution to increase regional energy, environmental, economic benefits and energy independence. Personal and public responsibility to minimize human impact on the environment has fueled support for green building requirements, energy efficiency, alternative transportation modes and renewable energy production and use."*
8. *"Enhance existing energy infrastructure and develop opportunities and strategies for green grid solutions to include a diverse portfolio of energy generation and distribution. Develop capital improvement resources to support and integrate broadband infrastructure development and the transition from conventional to renewable energy generation and distribution to increase regional energy independence and manage consumption and costs for the long term."*
9. *"Develop and enhance partnerships with incumbent providers and community based institutions to address future regional energy demands and capacity for viable business models. Support and develop local policies and programs that will enhance progress with viable and sustainable business models related to energy generation and distribution."*
11. *"Support technological innovation, development and job opportunities related to energy industries. Support tools and incentives to support clean energy technology innovation, including technology transfers from region's national labs, skill training in energy related disciplines and partnerships with existing workforce development institutions."*

The BB2 Project supports the objectives identified in the Keys to Sustainability 1, 8, 9, and 11 by developing additional transmission to add renewable energy to the interconnected New Mexico transmission grid and western transmission grid.

7.2.2.3 WIND

"New Mexico's best wind resources are primarily located on the Eastern Plains of the State. The wind resources for Santa Fe County are poor to fair due to the low annual average wind speeds." (pages 120-121)

Currently wind developers are exploring and developing wind opportunities in northern Torrance County due to development of better technology which result in increased wind turbine productivity. The BB2 Project provides an opportunity for other adjacent areas like southern Santa Fe County for renewable development.

7.2.3 RENEWABLE ENERGY INFRASTRUCTURE

7.2.3.2 UTILITY SCALE (pages 121-122)

"To deliver large-scale solar and wind power resources available in the County, high voltage electric power transmission lines are necessary. Designated and independent transmission service providers and renewable energy developers are investigating how best to serve these demands and are in addition evaluating New Mexico's potential to serve renewable energy to distant western markets. Additional transmission voltage capacity in the southern portion of the County would align well with the already identified renewable energy potential in that part of the County."

The BB2 Project is precisely the type of infrastructure project that is needed to deliver wind renewable energy to the transmission grid, particularly given the existence of an existing 345kV electric transmission line corridor in located in southern Santa Fe County which is currently carrying renewable wind power.

7.3 GOALS, POLICIES AND STRATEGIES (pages 125-126)

"Goal 23: Support energy efficiency and renewable energy to reduce greenhouse gas emissions and dependence on non-renewable energy use."

"Goal 24: Support the development and use of sustainable, renewable energy production and distribution infrastructure and reduce dependence on non-renewable energy use."

The BB2 Project supports Goals 23 and 24 by delivering wind renewable energy to the New Mexico transmission grid and the interconnected western grid. This BB2 Project allows for the new development of renewable wind energy in the southern Santa Fe County area.

Any Area or Community Plan Covering, Adjacent to, or within one (1) Mile of the Proposed Project Site Perimeter

The BB2 Project is within 1 mile of the *San Pedro Neighborhood Community Plan (1997-2001)* and the *2015 San Pedro Community Plan Update*. The BB2 Project is not within the boundary of the contemporary community of San Pedro.

6.2.3.8 A Statement or Visual Presentation How the Project will Relate to and be Compatible with Adjacent and Neighboring Areas within a one (1) Mile radius of the Project Site Perimeter

The BB2 Project will be located in an existing utility corridor adjacent to an existing 345kV transmission line for the entire length in Santa Fe County. Also included in the same utility corridor is a 115kV transmission line that the BB2 Project would also parallel for a portion of the route. The remainder of the 1-mile corridor is largely undeveloped ranch land. Ranching use can continue.

6.3. ENVIRONMENTAL IMPACT REPORT (EIR)

The enclosed EIR is, in fact, a new report created for the BB2 easement and not for the BB Line in 1984. This EIR document includes all of the affected parcels with 2018 information. See **Exhibit A**, as provided in May 10, 2018 additional information requested.

6.7. FISCAL IMPACT ASSESSMENT (FIA)

See **Attachment 10**.

DEVELOPMENT REPORT - CHAPTER 7 – SUSTAINABLE DESIGN STANDARDS

The following information addresses applicable considerations for a Conditional Use Permit. PNM has followed the direction and instructions on the Submittal Checklist: Conditional Use Permit provided at the Santa Fe County Pre-Application Meeting for the project on January 17, 2018 and the revised checklist on April 9, 2018 with Jose Larranaga, Planner with Building and Development Services, and from the Technical Advisory Committee (TAC) meeting held on February 1, 2018, the subsequent TAC letter dated February 22, 2018 for the BB2 Project in accordance with the Santa Fe County Sustainable Land Development Code, Chapter 7, Adopted by Ordinance 2016-9, December 13, 2016.

7.1 APPLICABILITY

This Development Report for Conditional Use Permit demonstrates compliance with Chapter 7 – Sustainable Design Standards where applicable per the Checklist.

7.2 FIRE AND BUILDING CODES

The Santa Fe County Sustainable Land Development Code states in Section 7.2, Fire and Building Codes, that, *"All development shall comply with the most current applicable codes adopted by the State of New Mexico, Santa Fe County, and other entities, including but not limited to the following:*

...7.2.1.4 New Mexico Electrical Safety Code as adopted by 14.10.5 NMAC ("2007 New Mexico Electrical Safety Code"), which adopts the 2007 National Electrical Safety Code."

Per the New Mexico Public Regulation Commission (NMPRC) regulations, PNM is required to develop new facilities to the current NESC. The BB2 Project will comply with the currently adopted NESC per 14.10.5 NMAC.

7.3 RESIDENTIAL PERFORMANCE STANDARDS

Not applicable to this project.

7.4 ACCESS AND EASEMENTS

7.4.1 General Access Requirement.

PNM will use existing state and county roads for access to the general area. No additional public road construction is planned. To the extent practical, the patrol 2-track developed for private ingress and egress access routes developed as part of the transmission corridor in 1984 will be used. Where needed, additional patrol 2-track will be developed to access structures and temporary construction sites. This private access will be acquired as part of the easement acquisition. Approximately 5 to 7 miles of new patrol 2-track is estimated. This access is generally two track development with minor grading. Overland travel may also be used. **NOTE:** additional information was provided to address Fire Marshall's concerns including construction work requirements with any contractors on the Project in May 10, 2018 **Exhibit E** additional information requested.

Utility services such as water, sewer, gas, or 3rd party communications are not required for the project. The need for fire protection is minimized by the clearing of the right-of-way and by providing adequate clearances from conductor to the ground.

7.4.2. Access and Utility Easements.

As part of securing the transmission line easement, PNM also secures the needed rights for ingress and egress over the property in order to access the line.

7.4.2.2. Utility Easements.

This project does not require third party utility services and no third party utility easements are planned or required.

7.4.2.3. Combined.

This section is not applicable to the project.

7.4.3. Drainage Easements.

To the extent reasonable and practicable, water courses will be avoided when selecting specific structure locations. If a water course is crossed by a patrol 2-track, steps will be taken to maintain the water course. No specific drainage easements are planned.

7.4.3.1.

Not applicable to this project.

7.4.4. Trail Easements.

Trail easements are not a part of this project.

7.4.5. Fire and Emergency Access Easements.

Fire and Emergency Access Easements are not part of this project. Transmission Line construction crews are prepared for working in rural locations. Part of their standard safety programs typically include training in first aid and CPR, coordination meetings with local emergency agencies, advance identification of nearest medical facilities, identification of GPS coordinates for work sites on a daily basis, and engaging with third party rescue organization(s) at the start of construction.

PNM understands the County would like more detailed "Fire Review and Access Points" information which the County can provide to the Fire Marshal. The information is provided in **Exhibit E** provided in May 10, 2018 additional information requested, which includes (a) detailed maps showing access; (b) the qualifications of construction personnel to address fire and injury incidents; (c) the frequency of inspections and visits to the BB2 line following construction.

7.4.6. Cross-Access Easements for Non-residential, Multi-Family and Mixed Uses.

This section is not applicable to this type of project.

7.4.7. Vegetation Prohibited.

No utility or drainage easements are planned.

7.12 UTILITIES

7.12.1.3.

The Santa Fe County Sustainable Land Development Code states that, "Above-ground electric utility lines that transmit electricity at a voltage greater than or equal to 46 kilovolts shall be designed and constructed at the minimum height necessary for the proposed structure to function properly and for public health, safety and welfare, as demonstrated by the applicant."

The Santa Fe County Sustainable Land Development Code states in Section 7.2, Fire and Building Codes, that, "All development shall comply with the most current applicable codes adopted by the State of New Mexico, Santa Fe County, and other entities, including but not limited to the following:

7.2.1.4 New Mexico Electrical Safety Code as adopted by 14.10.5 NMAC ("2007 New Mexico Electrical Safety Code"), which adopts the 2007 National Electrical Safety Code."

Per the New Mexico Public Regulation Commission (NMPRC) regulations, PNM is required to develop new facilities to the current NESC. The BB2 Project will comply with the currently adopted NESC per 14.10.5 NMAC.

The structure height is necessary in order to maintain adequate clearances and separation for safety requirements of the National Electric Safety Code (NESC). The rules contained in the NESC are provided for the practical safeguarding of persons and utility facilities during the installation, operation, and maintenance of electric supply and communication facilities, under specified conditions. The NESC is a standard published by the Institute of Electrical and Electronic Engineers (IEEE) and is a recognized standard for utility company safety. The typical height of the structures for the BB2 Project is approximately 120 feet to 150 feet which meets NESC standards for safety. The height of the BB2 structures is necessary and will be similar to the height of the existing BB Line structures.

To further clarify stamped drawings, the State of New Mexico Board of Licensure for Professional Engineers and Professional Surveyors - Engineering and Surveying Practice Act (NMSA, 1978), in section 61-23-22. ENGINEERING – EXEMPTIONS, Part B. states that, "An engineer employed by a firm, association or corporation who performs only the engineering services involved in the operation of the employer's business shall be exempt from the provisions of the Engineering and Surveying Practice Act, provided that neither the employee nor the employer offers engineering services to the public." Therefore, PNM is exempt from the request for stamped drawings, as PNM is doing the work in-house in order to present the requested structure height calculation.

PNM understands the County required information regarding the structure height requirements. PNM is providing more detailed information on these requirements, including citations to applicable rules and regulations governing electrical clearances and design standards. See **Exhibit D**, provided in May 10, 2018 additional information requested..

7.16 PROTECTION OF HISTORIC AND ARCHAEOLOGICAL RESOURCES

The archeological investigation and report attached with this application is a current 2018 report, not the previous report prepared in 1984 for the BB Line. PNM stated at the May 2nd meeting that PNM has received permission to access the Lone Mountain Ranch property and the Archeological Resources Report now includes this property. The current updated 2018 report, "PNM BB2 Transmission Line Cultural Resource Survey Santa Fe County, Private Lands" NMCRIS No. 140109, dated May 1, 2018 is provided in **Exhibit C** (CONFIDENTIAL) in May 10, 2018 additional information requested.

7.17 TERRAIN MANAGEMENT

7.17.3. Buildable Area

Buildable areas for the BB2 Project are identified as the pole sites for the transmission structures. The BB2 transmission structures will be located generally adjacent to the existing transmission structures of the BB Line. The BB2 Project consists of approximately 140 pole sites for the transmission structures in Santa Fe County. Each transmission pole site or structure area is approximately 20 feet x 40 feet. Each structure area will require construction staging area. Construction staging areas are generally 50 feet x 100 feet and may vary in size based on site conditions such as terrain. See **Attachment 6**. Average span length between transmission structures will be between approximately 1,000 feet and 1,500 feet. In rugged

terrain, structures may be spaced up to 1,900 or 2,000 feet. See **Attachment 7** for an illustration showing the typical arrangement for the project.

The Geotechnical report referenced in the EIR was prepared for the original BB Line. The new easement for the BB2 Project is immediately adjacent to the existing 150-foot easement. It is reasonable to consider that along much of the BB2 Project, the soil conditions would be similar in many instances. PNM stated at the May 2nd meeting that a geotechnical study is in progress for the BB2 Project and it would be two to three months before it is completed. PNM has prepared an explanation of the geotechnical process and clarifies why a completed version of the geotechnical report for the BB2 Project cannot be submitted with the current application **Exhibit B**, provided in May 10, 2018 additional information requested. PNM requests that the County consider issuing the CUP with a condition that will require PNM to submit a completed geotechnical report before the County will record the CUP.

7.17.4. No Build Areas

PNM intends to avoid no-build areas such as rock outcroppings, wetlands (none in the project area), drainages, ridge tops, 30% slopes, etc. As part of the final design and when pre-construction surveys are complete, no-build areas will be formally identified on the Site Development Plan. Many of these areas have already been identified and are shown in the following attachments:

Attachment 2: Site Development Plan; and **Exhibit A:** Environmental Impact Report, Figures 2a, 2b, and 2c, Arroyos and Flood Hazard Map.

7.17.5. Storm Drainage and Erosion Control

Given the rural nature of this project, minimal storm drainage installations are planned. Existing drainages will be left in-place as much as possible or restored to pre-construction conditions. At structure sites and on patrol 2-tracks with steeper slopes, erosion control mitigations such as silt fencing, berms, replacement of stored top soil, and revegetation will be practiced. PNM will be preparing a Stormwater Pollution Prevention Plan (SWPPP) per EPA's Construction General Permit.

7.17.6. Grading Clearing and Grubbing

Grading for construction staging areas and patrol 2-tracks will be required on steeper slopes. To the extent practical, existing material from cut areas will be used for compacted fill in the same general area.

To maintain safe clearances from conductor to vegetation, and to meet transmission vegetation standards required by the North American Electric Reliability Corporation (NERC, FAC-003-4), clearing of woody vegetation will be required along the new easement. A 100-foot corridor centered in the new 150-foot easement will be cleared of woody vegetation.

Grubbing will take place to develop construction staging areas at structure sites and along new patrol 2-tracks.

7.17.7. Restoration of Disturbed Areas

Restoration of disturbed areas such as cut slopes and construction staging areas will primarily involve revegetation.

7.17.9. Steep Slopes, Ridge Tops, Ridgelines and Shoulders

Ridgelines within the project area run north and south and the BB2 Project may cross but not parallel or skyline ridgelines and ridge tops. The BB2 Project is not anticipated to affect steep slopes, ridge tops, ridgelines and shoulders.

7.17.10. Development at or Above 7,400 Feet

The project does not include elevations above 7,400 feet.

7.18. FLOOD PREVENTION AND FLOOD CONTROL

7.18.9. Permit Procedures

The Federal Emergency Management Agency (FEMA) has identified Zone A flood hazard areas with no base flood elevations in association with the project area arroyos and draws. The project corridor passes through these areas, but no installation of structures or other ground disturbing construction is expected within them. If the final design indicates that a structure may occur within a Zone A flood hazard area, PNM will work in consultation with the appropriate flood zone authorities to address the requirements specified in section 7.18.9.1.

7.20. SOLID WASTE

Not applicable to the Project.

7.21. AIR QUALITY AND NOISE

Not applicable to the Project.

7.22. FINANCIAL GUARANTY

Not applicable to the Project.

7.23. OPERATION AND MAINTENANCE OF COMMON IMPROVEMENTS

Not applicable to the Project.

7.24. SWIMMING POOLS

Not applicable to the Project.

7.25 SPECIAL PROTECTION OF RIPARIAN AREAS

See **Exhibit A**, provided in May 10, 2018 additional information requested, Environmental Impact Report (EIR). No perennial or intermittent waterways cross the project area in Santa Fe County which would support riparian vegetation.

7.26 INFRASTRUCTURE AND RIGHT-OF-WAY DEDICATION

Not applicable to the Project.

ATTACHMENTS:

Attachment 1: Pre-Application Neighborhood Meeting Report and additional information

Attachment 2: Site Development Plan

Attachment 3: Structure Profile

Attachment 4: Structure Elevations

Attachment 5: Residential Dwellings and Non-Residential Structures

Attachment 6: Typical Pole Site

Attachment 7: Typical Arrangement of the Project

Attachment 8: Proposed Access Routes: Detail Map A, B and C

Attachment 9: Environmental Impact Report Original submittal

Attachment 10: Fiscal Impact Analysis (FIA)

Provided 10, 2018

Exhibits:

Exhibit A: Environmental Impact Report (EIR) for the BB2 Project, dated April 12, updated May 3, 2018

Exhibit B: Geotechnical Clarification

Exhibit C: Archaeological Resources Investigation for the BB2 Project, updated PNM BB2
Transmission Line Cultural Resource Survey Santa Fe County, Private Lands, dated
May 1, 2018

Exhibit D: Structure Height Justification

Exhibit E: Fire Review and Access Points - Additional Information

Additional Information and Copies Provided May 29, 2018

PNM
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July 12, 2018

Mr. Richard Virtue
Hearing Officer
Santa Fe County
102 Grant Ave
Santa Fe, NM 87501-2061

Subject: Conditional Use Permit CUP 18-5050 PNM BB2 345 KV Transmission Line Project
Corrections and Additions to the Staff Report

Dear Mr. Virtue:

Thank you for your consideration of PNM application CUP 18-5050 for the BB2 345 KV Transmission Line Project. The following information provides corrections and additional information to the Staff Report Case # CUP 18-5050 PNM 345kV Transmission Line Project Conditional Use Permit.

Changes to the Conditions of Approval:

7. Archaeological - *SEE NEXT PAGE*

Corrections and Additions to the Staff Report

1. The Staff Report notes that there are 32 separate parcels of land. The correct number of separate parcels is 25 with 17 different land owners (pages NBC-1 and NBC-11).

2. Section 4.9.6.5 CUP of the Staff report. Page NBC-6

Criteria 2. Inspections of the line for routine maintenance will take place **every 3 years**. In the future maybe conducted with drones and not patrol trucks.

Criteria 6. The steel structures are galvanized grey steel and are not painted. These structures dull in color over time.

3. Required Studies Reports and Assessments

Section 6.1.2.1 Environmental Impact Report (EIR)

An updated EIR report dated May 3, 2018 was submitted for review (Page NBC-7).

Updated survey results for the grey vireo bird was submitted to staff on July 9, 2018. The survey results indicate that there were no gray vireos observed or located in Santa Fe County with no nests in the corridor.

NBB-26a

Section 7.16 Protection of Historic and Archeological Resources
Archeological Information:

On page NBC-8, PNM recommends revising the mitigation as follows:

"Mitigation: recommended for two sites. No further treatment is recommended for the remaining 15 sites as they are either not recommended as eligible or additional ground disturbance will be avoided. One of the sites, LA 171612, is mid-span and can be monitored and avoided."

The language on page NBC-10 in the HPD comments in the 2nd bullet contains a typographical error in that LA 774436 should be LA 77436.

PNM suggests the following amended condition #7 on page NBC-13:

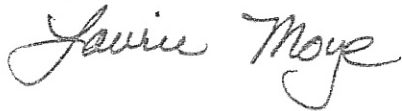
"Ground disturbance at archaeological sites LA 171600, LA 171612, LA190494 and LA 191147 shall be avoided. A mitigation plan shall be prepared and implemented for LA 55687 and LA 77436. The mitigation plan shall be provided to HPD for review and approval prior to implementation."

Section 7.18 Flood Prevention and Flood Control

PNM has met with the Edgewood Soil and Water Conservation District to discuss the project and will continue work with them.

Thank you for your consideration of these corrections and additions to the Staff Report for CUP 18-5050.

Sincerely,



Laurie Moyer
Coordinator, Regulatory Project and Public Participation

NBB-26b

